

Meeting: Cabinet
Date: 9th November 2023
Classification: Part 1
Key Decision: No
Urgent Report: Yes
Title of Report: Update on Southend United Football Club – Land Transactions

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Executive Councillor: Cllr Tony Cox (Leader)
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1. Executive Summary

- 1.1. **The reason for the urgency of this report is that the consortium is seeking a decision by the Cabinet in advance of the proposed sale and purchase of the Southend United Football Club, proposed for completion on 17th November 2023.**
- 1.2. A consortium has formed and agreed terms for the purchase of Southend United Football Club. The consortium is currently progressing their due diligence prior to completion.
- 1.3. The council is not directly a party to the proposed transaction however the terms of the agreements over Roots Hall and Fossetts Farm which the Council is party to will need to be amended because the proposed purchase would:
- a) See all land interests at Roots Hall transferred to the consortium. Note this does not include any council land interests which are dealt with separately below except that it is likely that a transfer of interests in the land relating to the club shop at 299-301 Victoria Avenue will be required in due course – a matter which will be able to be dealt with within delegated limits at the relevant time.
 - b) No longer require the new stadium to be constructed at Fossetts Farm.
 - c) Enable some of the housing planned for Roots Hall to be delivered at Fossetts Farm as part of a wider residential-led community.
 - d) Require contributions out of the profit of the development at Fossetts by the existing owner (Thames Plaza Plc) to be paid to the consortium to cross-fund the refurbishment/reconstruction of the stadium at Roots Hall, such payment to be made within 10 years of the sale of the club.
- 1.4. On [24 November 2020, the Cabinet](#) agreed to enter in to transactions to enable the relocation of the stadium from Roots Hall by agreeing to enter in to annuity leases for apartments to be delivered at Fossetts Farm, and then

Roots Hall once the stadium had been relocated. Agreements were duly completed on this basis in May 2021. The council is now asked to consider making various changes to this currently contracted position to enable a) to d) above, effectively giving rise to a new transaction.

- 1.5. The financial and practical implications of the changes that the council is asked to make will be significant and therefore will need to be subject to all relevant due diligence, including appraisal by the council's property, legal, financial advisors and the council's external auditors, such advice will also give due consideration to the financial standing of all companies related to the transaction in relation to their expected ability to deliver on the contractual requirements of the transaction. The council's costs will need to be met in advance of being incurred. The matter will also need to be referred to Cabinet for a final decision in due course.

NOTE: This report deals only with the land transaction issues.

Quite separately the council, acting as Local Planning Authority will also be asked to consider planning applications in relation to both the Roots Hall and Fossetts Farm sites which are expected to be brought by separate developers and only connected by a requirement for profit from Fossetts Farm to be reinvested in Roots Hall up to an agreed sum. These applications will be considered on their merits at the relevant time.

2. Recommendations

It is recommended that Cabinet:

- 2.1. **Notes that a future report detailing changes to the current contractual position will be required to facilitate the proposed sale and purchase of Southend United Football Club (SUFC) by the consortium.**
- 2.2. **Notes that the proposal is for the element of the development which would be subject to annuity leases to the council to be consolidated at Fossetts Farm (with no element at Roots Hall) and that it is likely to comprise up to 911 apartments and up to 400 family homes (semi-detached, terraced and town-housing, not apartments). As part of the land transaction, Cabinet will require 30% affordable housing to be achieved across the development (revised unit mix to be agreed).**
- 2.3. **Agrees that it requires the development to be designed specifically as a high quality build-to-rent community with ancillary and associated commercial and amenity provision with sizes and specifications of all accommodation aligned to the target rents.**
- 2.4. **Notes that the transaction will need to be structured in a way that viability can be tested at the time of funding, this is due to the relationship between construction cost, gilt rates (and therefore funding rates), market dynamics and rental levels.**

- 2.5. **Agrees that new planning applications will need to be considered by the council as Local Planning Authority in due course.**
- 2.6. **As part of the planning application, the council requires the developer to achieve Passivhaus or equivalent sustainability credentials for any new housing which is to be leased by the Council.**
- 2.7. **Agrees that the council's land holding at 291-297 Victoria Avenue, adjacent to Roots Hall is surplus to council's requirements, will no longer be required in connection with the linked transactions and may assist with the redevelopment and viability of Roots Hall. Therefore instructs the Executive Director, Finance and Resources, to carry out the relevant due diligence on the land and title to prepare the land for sale.**
- 2.8. **That in relation to 2.7 above, to delegate the agreement of the method and terms of sale to the Cabinet Member for Regulatory Services in consultation with Executive Director Finance and Resources.**
- 2.9. **Note that the transfer of the council's interest in the land on which the SUFC Shop is situated at 299-301 Victoria Avenue be dealt with, if required, under delegated authority.**
- 2.10. **Request that officers work with retained advisers to negotiate changes to the transactions with the aim of meeting the requirements of the council, the consortium, the developer and the funder and having regard to the needs of the future community. Notes that a further report will be presented to Cabinet if and when terms satisfactory to all parties are agreed in principle all relevant due diligence completed.**

3. Background

- 3.1. The council has always recognised the importance of Southend United Football Club (SUFC) to the city. SUFC has a substantial, loyal fan base and plays an important part in the city's sense of pride and in the local economy.
- 3.2. Over the years, the council has structured and restructured the transactions around the redevelopment of land at Fossetts Farm and Roots Hall numerous times yet to date no development, other than the construction of the new training ground north of Fossetts Farm, has taken place.
- 3.3. SUFC is now in the process of being sold to a consortium which plans to take the club in a different direction, importantly to the transactions, without a new stadium at Fossetts Farm. The consortium prefers the approach of retaining, regenerating and redeveloping the club's cultural home at Roots Hall instead.
- 3.4. The consortium has, as part of the consideration for them taking on the club, required a substantial capital contribution from the current owners. The intention is that this contribution is to be realised through the redevelopment of Fossetts Farm which will, in turn enable development profit to be ringfenced to be invested in the redevelopment of Roots Hall by the consortium.

- 3.5. The council entered in to a series of transactions to enable the construction of a new stadium at Fossetts Farm and the construction and leasing-in of up to 850 apartments at Fossetts Farm and up to 502 apartments at Roots Hall (subject to the stadium relocation being completed).
- 3.6. The changes required represent a wholly different transaction for the following reasons:
- a) All homes are proposed in one, single community rather than split across two separate sites. The land transactions from the council's perspective will be simplified and importantly and in everyone's favour, the development may then be funded and delivered in phases rather than requiring the full funding commitment up-front.
 - b) The impact of this is lessened by introducing different housing types but the risk profile is different in terms of the rate of letting, sustaining the level of rent necessary to proceed, the type of housing, affordability, build cost, phasing and funding.
 - c) Changes are proposed to other elements of the transaction which will have very significant financial, viability and risk implications for the council.
 - d) Considerably longer lease-terms (up to 55 years) are being sought in order to raise the capital required to finance the construction and other commitments, even without the stadium. This needs to be carefully appraised and the council must seek to minimise the lease term in balance with other changes.
 - e) The financial position of all parties, including the council (due to changes in its financial pressures and resilience) will need to be re-assessed against the new terms and proposed contractual obligations to ensure long-term financial sustainability. Appropriate mitigations will be considered to manage this as appropriate.
 - f) The economic climate is very different now to when the transactions were exchanged. Funding is much more expensive to secure, build costs have increased, as have rents, however affordability for renters is under significant pressure and this is a new type of offering in the Southend market, at significant volume and will need detailed market and risk analysis.
- 3.7. It is necessary for Cabinet to take a decision at this point to provide confidence for the consortium that the council is open to consider changes to the transactions to facilitate the sale of the club and the proposed different arrangements. It is also important to provide the mandate for officers to negotiate the details and to ensure that the council's long-term financial position is protected while the developments are given the best prospect of being realised.
- 3.8. At this stage, it is too early to make any detailed recommendations on the terms for the new transactions. Cabinet will need to consider these in due course if agreement can be reached on suitable terms. In the interim, and unless satisfactory revised terms can be agreed the existing contracts stand.

4. Reasons for Decisions

- 4.1. Changes to the transactions will be required if the council is to play its part in facilitating the sale and purchase of the club – but only on the basis that the changes to the transaction are also in the best interest of the council and subject to all relevant due diligence.

5. Other Options

- 5.1. Cabinet could decide not to vary the terms of the transaction with the club on the understanding that this would not facilitate the redevelopment of the sites under the proposed new arrangements and may put the sale of the club at risk.
- 5.2. Cabinet could decide that the financial risks involved are beyond a level which it is prepared to consider and request that officers do not pursue changes to the agreements. This may have the effect of further stalling the developments and the sale of the club.

6. Financial Implications

- 6.1. There will be significant financial implications involved in making changes to the transactions, particularly as the request now facing the Council is to completely redesign the transactions retaining only the principle of using annuity lease structures to enable the construction to be forward-funded then leased to the Council in the long term with options to acquire at the end of the leases.
- 6.2. Full and independent financial due diligence will be required. Any changes will also need to be considered by the Council's external auditors having regard not only to the transaction but the Council's financial position and the long-term sustainability of any proposed changes/transactions of this nature.
- 6.3. In relation to the sale of the land adjacent to Roots Hall, now that the land is not directly required for the linked transactions, it would be more difficult for a special purchaser case to be made and the Council must meet its best consideration requirements pursuant to s.123 Local Government Act 1972 and should consider marketing the land for interested purchasers to bid either by open tender, sealed bids or auction so that it can demonstrate that it has obtained the best price for the land and any further holding costs (mainly rates and periodic maintenance) are removed.

7. Legal Implications

- 7.1. There will be significant legal implications involved in any changes to, or re-construction of the transactions. Detailed and specialist advice will be required throughout and a full legal report on the transaction will be secured as part of any pre-exchange due diligence at the relevant time.

8. Policy Context

- 8.1. The council has committed to delivering highly sustainable homes and to delivering new housing with 30% affordable across developments of this scale.
- 8.2. Any new housing must comply with all planning and building regulations requirements.
- 8.3. Planning policy considerations will be addressed separately as part of the necessary planning applications and considered on their merits by the Development Control Committee in due course.

9. Carbon Impact

- 9.1. The sustainability of the design of these developments is important, particularly as they will be rented therefore there is liability both for tenants who will be keen to minimise bills but also for the council as leaseholder of the common parts and external areas where costs will need to be kept to a minimum and carbon implications carefully managed throughout design, construction and operation.
- 9.2. The developer will have to deliver as a minimum position to the current building regulations in place at the time when construction starts. The council has committed to a higher level of sustainability for all new housing it is involved in delivering and it should therefore require a significantly higher benchmark of sustainability as a requirement of its agreement to reopen negotiations. The recommendation is to require all new homes to be delivered to Passivhaus or equivalent standards. Whilst the initial cost outlay will be higher, the properties will be more attractive to target tenants, bills will be lower for tenants and the council, carbon impacts will be less and therefore this should assist in maintaining strong rent levels and letting the properties with minimal voids.
- 9.3. It is therefore recommended that Cabinet require Passivhaus or equivalent standards for any new housing delivered at Fossetts Farm as part of the proposed transactions.

10. Equalities

- 10.1. There are no effects on council services therefore the requirement for an Equalities Impact Assessment is not triggered however equality, diversity, accessibility and inclusion will all be important features of the design of any new community and will be considered throughout the design and development process and throughout the management of the built environment.
- 10.2. Where applicable, equalities impacts will be considered in relation to building design through the planning process.

10.3. Equalities impacts relating to the proposed developments have not been assessed in detail at this point.

11. Consultation

11.1. The proposals will require planning permission and any applications will be the subject of the usual statutory processes.

11.2. The land transactions themselves do not trigger the need for any statutory consultation.

12. Appendices

12.1. None

13. Report Authorisation

This report has been approved for publication by:		
	Name:	Date:
S151 Officer	Joe Chesterton	7/11/2023
Monitoring Officer	Kim Sawyer	7/11/2023
Executive Director(s)	Alan Richards	31/10/2023
Relevant Cabinet Member(s)	Cllr Tony Cox	7/11/2023
	Cllr David Garston	7/11/2023